REMARKS

Status of the Claims

- Claims 1-14 are pending in the Application after entry of this amendment.
- Claims 1-14 are rejected by Examiner.
- Claims 1-3 and 8-10 are amended by Applicants.

Claim Rejections Pursuant to 35 U.S.C. §102

Claims 1 and 8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2004/0045030 to Reynolds et al. (Reynolds). Applicants respectfully traverse the rejection.

Claims 1-3 and 8-10 are amended to move preamble features into the elements of the claims, to clarify the claims, and to comport with claim drafting standards. Support for the amendments is found in the original claims and the as-filed specification. The claim amendments are not made in response to any cited art.

Reynolds describes a media streaming system that includes a searchable library of separate and distinct CODECs that are provided as part of a computer implemented intelligence system. (See Reynolds, Abstract). In one embodiment of Reynolds, the streaming media system provides compression of streaming of a multiplicity of media signals using a CODEC library that is adapted to store multiple CODECS of different types and operations, and that is adapted to be searched and accessed by a network system, such as a neural network, in order to provide an appropriate CODEC from the CODEC library for use in compressing the input streaming media signal into a compressed representation for transmission to a destination device. (See Reynolds, para 0155).

Independent Claim 1 is directed to a method for downloading a video program using a mobile terminal. Thus, Claim 1 addresses activities occurring at a destination device (mobile device) that receives a media stream, whereas Reynolds describes a system that can source a multiplicity of media streams to a destination device.

The present Office Action, dated 1/24/08, pages 2-3, cites portions of Reynolds figures in attempting to make a prima facie case of anticipation for pending Claims 1 and 8. Applicants respectfully submit that the cited figures and corresponding text of Reynolds fail to teach the elements of independent Claims 1 and 8 as discussed below.

The present Office Action cites Reynolds Figure 2 as disclosing elements of Claim 1. Figure 2 of Reynolds describes a video/audio transcoder 200 that enables one video source 210 to be streamed across multiple formats 215 such as MPEG4, Real Video™, or Quick Time™ (See Reynolds, paragraph 0180). Specifically, Reynolds describes the Figure 2 transcoder as transcoding digitized media originating from any compressed or uncompressed format into a multiplicity of streams having any other format (See Reynolds, para. 0181). It is noted that the subject matter of Claims 1 and 8 do not include a transcoder or media format changes. Instead, Claim 1 addresses a method using different downlink rates for a mobile terminal using two separate networks.

The present Office Action on page 2 cites Figure 2 item 220 "MS player, 32 Kb-HTTP as disclosing the Claim 1 aspect of "a first radio access network having a first data transfer rate". The Office Action on page 2 also cites Figure 2, item 220 "MS player, 100Kb – MMS" as the Claim 1 aspect of "a second radio access network having a second data transfer rate that is faster than the first data transfer rate".

Applicants observe that Figure 2, item 220 is labeled as a "Network" and no indication whatsoever is provided in the figure or in the supporting text that indicates that the "Network" 220 of Figure 2 describes a "first radio access network" and a "second radio access network" as recited in Claim 1. Applicants respectfully submit that one of skill in the art would recognize the Reynolds Network 220 to be a single network. Thus, Applicants respectfully submit that Reynolds fails to teach the Claim 1 aspects of a first radio access network and a second radio access network having respective first and second data transfer rates.

The present Office Action on page 3 cites the Figure 3 "Live Buffer Cache 310" as anticipating the Claim 1 element of "buffering portions of the *downloaded* video program that result when a rate at which the video program is *downloaded* exceeds the

playback rate". Applicants respectfully disagree with this conclusion of the present Office Action.

Reynolds, at paragraph 0185 continues to describe the transcoder source of a streamed video data in the Figure 3 context of buffering, at the source, multiple different streams of video data from the sourcing transcoder. Paragraph 0185 of Reynolds specifically states "Buffering 310 is created as a function of *client pull* for different video streams." Thus, Applicants respectfully submit that one of skill in the art would recognize that in Reynolds, buffering 310 occurs at the source transcoder before distribution to the single Network 220 and that the Reynolds buffering is based on the client (destination device) requests (See Reynolds, para. 0185 and Figure 2).

Accordingly, Reynolds fails to teach the Claim 1 element of "buffering portions of the downloaded video program that result when a rate at which the video program is downloaded exceeds the playback rate" because Reynolds describes buffering in a media data source transcoder and not in a mobile terminal receiving a download as recited in Claim 1. Also, Reynolds fails to teach anything concerning buffering portions of downloaded video when a download exceeds a playback rate as recited in Claim 1. Thus, Applicants respectfully conclude that Reynolds fails to anticipate any of the Claim 1 aspect of "buffering portions of the downloaded video program that result when a rate at which the video program is downloaded exceeds the playback rate".

The present Office Action on page 3 cites Reynolds Figure 9, item 904 "Message to cellular customer in Cell 2" as anticipating the Claim 1 element of "negotiating, with the first access network, the third data transfer rate for downloading the video program, when the difference between the first and third data transfer rates exceeds a threshold level". Applicants respectfully disagree with this conclusion of the present Office Action.

Reynolds, Figure 9 shows a schematic block flow diagram of various interrelated components of a wireless communications system during backhauling (See Reynolds, para. 175). Applicants note that the title on Figure 9 of Reynolds states "Depiction of backhaul communications resulting from handoff of cellular communication when recipient transits into a second cellular area". Also, as described

in Reynolds paragraph 237 with respect to Figure 9, a backhaul channel is generated whenever a transmitter or receiver migrates between call coverage zones. The pass-off communications resulting in use of the backhaul channel. The backhaul channel represents a significant use of bandwidth. Specifically, paragraph 237 states:

As Figure [9] shows, such "backhauling" may include a doubling (media sent back from first cell being left and resent to second cell for transmission) *or even a quadrupling* (overlapping communication from both first and second cells) *in the bandwidth used for communicating a particular signal*."

Applicant notes that neither the depiction of Figure 9, nor the description of Figure 9 in the text of Reynolds describes negotiating a third data transfer rate with a first network. Also, one of skill in the art would also recognize that message 904 in Figure 9 is not the result when the difference between a first and a third data transfer rates exceeds a threshold level as recited in Claim 1 because Reynolds fails to describe any negotiation of a lower rate with a network when passing from one cell to another as depicted in Figure 9.

Since, as recited in Claim 1, the third data transfer rate is lower than the first data transfer rate, and since Reynolds describes a doubling or even a quadrupling in bandwidth requirement in the description of backhauling with regard to Figure 9, then it becomes clear to one skilled in the art that a negotiation of a third data transfer rate that is lower than the first data transfer rate is not the same as the Reynolds "backhaul" description of Figure 9 nor message 904. Applicants respectfully submit that the cited item 904, described as "message to cellular customer in cell 2" fails to teach the Claim 1 element of "negotiating, with the first access network, the third data transfer rate for downloading the video program, when the difference between the first and third data transfer rates exceeds a threshold level".

For the same reasons as above, Reynolds also fails to teach all of the elements of independent Claim 8.

Since Reynolds fails to teach all of the elements of independent Claims 1 and 8, then Reynolds fails to render Claims 1 and 8 anticipated under 35 U.S.C. §102(e). Applicants respectfully submit that the pending claims patentably define over the cited

art because all elements of the pending claims are not found in the cited art. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of independent Claims 1 and 8.

Claim Rejections Pursuant to 35 U.S.C. §103

Claims 2-7 and 9-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0045030 to Reynolds et al. (Reynolds) in view of U.S. Patent Publication No. 2006/0176968 to Keaney et al. (Keaney). Applicants respectfully traverse the rejection.

The description provided by Reynolds was discussed above.

Keaney describes a configurable Viterbi decoder to decode a coded signal for inclusion in a radio receiver for implementing the physical layer receiving function (PHY) of a wireless data network. The Keaney decoder includes a branch metric generator with an input to the coded signal, an ACS subsystem coupled to the branch metric generator, and a survivor memory unit coupled to the ACS subsystem. The decoder includes a plurality of outputs each providing a decoded version of the input signal decoded to a distinct decision depth such that the Viterbi decoder is programmable to decode the signal to one of a plurality of decision depths (See Kearney, Abstract).

Applicants note that Keaney, like Reynolds, fails to disclose at least the Claim 1 aspects and elements of:

"downloading, through one of a first radio access network and a second radio access network, the video program at respective first and second data transfer rates, the video program being downloaded at the second transfer rate, which is faster than the first data transfer rate…",

"buffering portions of the downloaded video program that result when a rate at which the video program is downloaded exceeds the playback rate", and

"negotiating, with the first radio access network, the third data transfer rate for downloading the video program, when a difference between the first and third data transfer rates exceeds a threshold level".

Applicants note that Claim 8, although patentably distinct from Claim 1, shares some features of Claim 1 that Reynolds fails to teach. Keaney also fails to teach these features. Thus, Kearney does not cure the deficiencies of Reynolds in teaching all of the elements of independent Claims 1 and 8. As a result, the combination of Reynolds and Keaney fails to establish a prima facie case of obviousness because all elements of independent Claims 1 and 8 are not found in the cited combination. In fact, the cited reference to "backhauling' in Figure 9 of Reynolds actually teaches away from the aspect of a third data rate that is less than a first data rate because Reynolds teaches a doubling or a quadrupling of bandwidth in backhauling in the context of Figure 9.

Applicants respectfully submit that neither Reynolds nor Keaney, considered alone or considered in combination, teach or suggest all of the elements of pending independent Claims 1 and 8. Thus, it is respectfully submitted that Claims 1 and 8 are not rendered obvious by the combination of Reynolds or Keaney. Also, dependent Claims 2-7 and 9-14, which depend on independent Claims 1 and 8 respectively are also rendered non-obvious per MPEP §2143.03.

Conclusion

Applicants respectfully submit that the pending claims patentably define over the cited art and respectfully requests reconsideration and withdrawal of the anticipation and obviousness rejections.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 07-0832 therefore.

Respectfully submitted,
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